

CHAPTER 369

EDUCATION - POSTSECONDARY

SENATE BILL 21-029

BY SENATOR(S) Fenberg, Bridges, Buckner, Danielson, Donovan, Ginal, Gonzales, Jaquez Lewis, Kolker, Lee, Moreno, Pettersen, Priola, Rodriguez, Story, Winter, Zenzinger, Garcia;
also REPRESENTATIVE(S) Garnett and Benavidez, Amabile, Bacon, Bernett, Bird, Boesenecker, Caraveo, Cutter, Duran, Esgar, Exum, Froelich, Gonzales-Gutierrez, Herod, Hooton, Jodeh, Kipp, Lontine, McCluskie, McCormick, McLachlan, Michaelson Jenet, Mullica, Ortiz, Ricks, Roberts, Sirota, Snyder, Soper, Tipper, Titone, Valdez A., Valdez D., Weissman, Young.

AN ACT**CONCERNING IN-STATE TUITION CLASSIFICATION FOR MEMBERS OF AMERICAN INDIAN TRIBES WITH HISTORICAL TIES TO COLORADO.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) States may enact laws beneficial to American Indians in exercise of the federal government's trust power pursuant to implied congressional authorization;

(b) The United States supreme court, in *Morton v. Mancari*, 417 U.S. 535 (1974), has recognized that classifications based on membership in federally recognized American Indian tribes are not racial classifications but rather classifications based on membership to quasi-sovereign tribal entities;

(c) The state of Colorado maintains a list of federally recognized American Indian tribes that have historical ties to the land now called Colorado for purposes of the federal "Native American Graves Protection and Repatriation Act", 25 U.S.C. sec. 3001 et seq., as amended, and the state unmarked human burial process pursuant to part 13 of article 80 of title 24, Colorado Revised Statutes; and

(d) Postsecondary educational institutions of the state of Colorado seek to achieve a diverse student population, ensuring the rich interchange of ideas.

SECTION 2. In Colorado Revised Statutes, **add** 23-7-112 as follows:

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

23-7-112. Tuition classification for members of American Indian tribes with historical ties to Colorado - legislative declaration. (1) (a) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(I) OFTEN DUE TO CIRCUMSTANCES BEYOND THEIR CONTROL, MANY AMERICAN INDIAN TRIBES AND MEMBERS OF AMERICAN INDIAN TRIBES HAVE BEEN FORCED TO RELOCATE ACROSS STATE LINES, FAR FROM THEIR HISTORICAL HOME PLACES. AS A CONSEQUENCE, AMERICAN INDIAN HIGH SCHOOL STUDENTS OFTEN ONLY RECEIVE IN-STATE TUITION ELIGIBILITY IN THEIR STATE OF CURRENT RESIDENCE RATHER THAN THE STATE THEIR TRIBES TRADITIONALLY CALLED THEIR ANCESTRAL HOME.

(II) COLORADO INCLUDES THE ANCESTRAL HOME PLACES OF AT LEAST FORTY-EIGHT AMERICAN INDIAN TRIBES;

(III) ACCORDING TO THE UNITED STATES CENSUS BUREAU CURRENT POPULATION SURVEY, IN 2016, ONLY APPROXIMATELY NINETEEN PERCENT OF COLLEGE-AGED AMERICAN INDIAN TRIBE MEMBERS WERE ENROLLED IN COLLEGE, COMPARED TO APPROXIMATELY FORTY-ONE PERCENT OF THE TOTAL COLLEGE-AGED POPULATION, THE LOWEST PERCENTAGE OF ALL RACE AND ETHNICITY GROUPS SURVEYED; AND

(IV) FURTHER, IN 2016, OVER TWENTY-SIX PERCENT OF AMERICAN INDIAN PEOPLE LIVED IN POVERTY, THE HIGHEST RATE OF ANY RACE GROUP SURVEYED, WITH THIRTY-THREE PERCENT OF AMERICAN INDIAN CHILDREN UNDER EIGHTEEN YEARS OF AGE LIVING IN POVERTY.

(b) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT COLORADO PUBLIC UNIVERSITIES AND COLLEGES SHOULD EXTEND IN-STATE TUITION CLASSIFICATION TO AMERICAN INDIAN STUDENTS WHO ARE REGISTERED MEMBERS OF A FEDERALLY RECOGNIZED AMERICAN INDIAN TRIBE WITH HISTORICAL TIES TO COLORADO.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE 7 TO THE CONTRARY, BEGINNING WITH THE 2021-22 ACADEMIC YEAR, THE GOVERNING BOARD OF EACH INSTITUTION SHALL ADOPT A POLICY TO GRANT IN-STATE TUITION CLASSIFICATION TO A STUDENT WHO IS A REGISTERED MEMBER OF A FEDERALLY RECOGNIZED AMERICAN INDIAN TRIBE WITH HISTORICAL TIES TO COLORADO, AS DESIGNATED BY THE COLORADO COMMISSION OF INDIAN AFFAIRS, ESTABLISHED PURSUANT TO ARTICLE 44 OF TITLE 24, IN PARTNERSHIP WITH HISTORY COLORADO.

(3) BEGINNING WITH THE FALL SEMESTER OF THE 2021-22 ACADEMIC YEAR, A STUDENT CLASSIFIED AS AN IN-STATE STUDENT PURSUANT TO THIS SECTION:

(a) MAY BE COUNTED AS A RESIDENT STUDENT FOR ANY PURPOSE PURSUANT TO THIS ARTICLE 7;

(b) MAY BE COUNTED AS A RESIDENT STUDENT FOR PURPOSES OF SECTION 23-1-113.5; AND

(c) IS ELIGIBLE TO PARTICIPATE IN THE COLLEGE OPPORTUNITY FUND STIPEND PURSUANT TO PART 2 OF ARTICLE 18 OF THIS TITLE 23 AND STATE-FUNDED STUDENT FINANCIAL ASSISTANCE PROGRAMS PURSUANT TO ARTICLE 3.3 OF THIS TITLE 23, AND

MAY BE ELIGIBLE FOR PRIVATE FINANCIAL AID PROGRAMS.

(4) THIS SECTION DOES NOT APPLY TO FORT LEWIS COLLEGE DUE TO ITS HISTORIC COMMITMENT TO AMERICAN INDIAN EDUCATION. FURTHERMORE, NOTHING IN THIS SECTION MODIFIES OR AFFECTS THE AMERICAN INDIAN PUPIL TUITION WAIVER PURSUANT TO SECTION 23-52-105 (1)(b)(I).

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 28, 2021